

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

REGIONS BANK

PLAINTIFF/PETITIONER

v.

CIVIL ACTION NO. 4:09cv32-TSL-LRA

IRA S. HERRINGTON

DEFENDANT/RESPONDENT

**AGREED ORDER SETTING ASIDE
CLERK'S ENTRY OF DEFAULT AND GRANTING OTHER RELIEF**

CAME ON FOR HEARING the joint *ore tenus* motion of Plaintiff/Petitioner Regions Bank ("Regions") and Defendant/Respondent Ira S. Herrington ("Herrington") to set aside the Clerk's Entry of Default and for Other Relief. In return for the relief consented to herein by Regions, Herrington has voluntarily consented to an injunction prohibiting him from further prosecuting his claims against Regions and any other covered person in *Ira S. Herrington v. Jack H. Wilson d/b/a Wilson Construction, Inc., Glenn Construction, Inc., AmSouth Bank, and Regions Bank, as Successor in Interests to AmSouth Bank*; in the Circuit Court of Harrison County, Mississippi, First Judicial District; Civil Action No. A2401-08-479 or otherwise, pending a final adjudication of Regions' putative arbitration rights in this Action and any subsequent appeal(s). Considering that this is an Agreed Order, this Court FINDS the relief jointly requested by the Parties to be well-taken.

WHEREFORE, IT IS HEREBY ORDERED that:

- (1) Herrington shall serve a response and response memorandum, if any, to Regions' [3] Motion to Compel, no later than Friday, April 24, 2009;
- (2) The [7] Clerk's Entry of Default is hereby SET ASIDE;
- (3) Herrington shall serve his Answer to Regions' [1] Complaint, if any, no later than Friday, April 24, 2009;
- (4) Herrington is preliminarily ENJOINED from proceeding with and prosecuting

any claims against Regions¹ and any other covered person² in *Ira S. Herrington v. Jack H. Wilson d/b/a Wilson Construction, Inc., Glenn Construction, Inc., AmSouth Bank, and Regions Bank, as Successor in Interests to AmSouth Bank*; in the Circuit Court of Harrison County, Mississippi, First Judicial District; Civil Action No. A2401-08-479 or otherwise, in any forum other than before the American Arbitration Association, pending a final adjudication of the enforceability of Regions' putative arbitration rights *vis a vis* Herrington in this Action and any subsequent appeal(s);

- (5) Herrington's [13] Special Motion for Time is DENIED without prejudice as MOOT; and
- (6) Regions' [8] Motion for Default Judgment is DENIED without prejudice as MOOT.

SO ORDERED, this the 9th day of April, 2009.

/s/ TOM S. LEE

UNITED STATES DISTRICT JUDGE

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As used in the preliminary injunction portions of this Agreed Order, "Regions" shall include Regions Bank, AmSouth Bank, their respective predecessors, successors and affiliates, as well as the putative entity named as Defendant "AmSouth Bank, and Regions Bank, as Successor in Interests to AmSouth Bank" in *Ira S. Herrington v. Jack H. Wilson d/b/a Wilson Construction, Inc., Glenn Construction, Inc., AmSouth Bank, and Regions Bank, as Successor in Interests to AmSouth Bank*; in the Circuit Court of Harrison County, Mississippi, First Judicial District; Civil Action No. A2401-08-479.

²

By "covered person," this Court means a person covered by the terms of the applicable arbitration provisions. This preliminary injunction does not enjoin Herrington from proceeding with and prosecuting his claims against Defendants Jack H. Wilson d/b/a Wilson Construction, Inc. and Glen Construction, Inc. in *Ira S. Herrington v. Jack H. Wilson d/b/a Wilson Construction, Inc., Glenn Construction, Inc., AmSouth Bank, and Regions Bank, as Successor in Interests to AmSouth Bank*; in the Circuit Court of Harrison County, Mississippi, First Judicial District; Civil Action No. A2401-08-479 or otherwise.